FPPC Bulletin



May 2003

Fair Political Practices Commission

Volume 29, No. 2

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Toll-free Advice Line: 1-866-ASK-FPPC

Public officials, local government filing officers, candidates, lobbyists and others with obligations under the Political Reform Act are encouraged to call toll-free for advice on issues including campaign contributions and expenditures, lobbying and conflicts of interest. FPPC staff members answer thousands of calls for telephone advice each month.

Message from the Chair

As I begin my term as Commission chair, I first wish to congratulate my predecessor, Karen Getman, and the commissioners and staff of the FPPC for their tireless work. They have done an admirable job of administering California's Political Reform Act and providing improved service to the public and the regulated community.

Their major accomplishments included creation of new public education programs, such as the FPPC's toll-free advice line and expanded web site, the implementation of streamlined enforcement programs, and the Herculean task of implementing Proposition 34.

In the days ahead (and as we catch our breath!), my hope is that we will build upon this foundation in many innovative ways. Drawing from the past successes and ongoing public input, I will seek support to refocus on public education and simplification of regulations, with the goals of further improving compliance and preventing inadvertent violations of the Act.

Fair enforcement of conflict of interest and disclosure rules is a vital FPPC mission. I also believe that those rules should be spelled out as clearly and concisely as possible so that no Californian is discouraged from seeking office or, once in office, from properly exercising his or her duties, due to fear of an inadvertent violation.

As a former FPPC staff counsel, I add that it is wonderful to be back at the agency in Sacramento. Having spent the last six years working closely with local officials, I also hope my unique perspective will help us effectively focus on the Act-related concerns of local governments, other regulated entities, and, of course, the public and the voters who have placed so much trust in us. I welcome your ideas and suggestions.

Much has been accomplished since voters approved the Act in 1974. Many challenges remain, and I am deeply honored by this opportunity to move forward.

Liane M. Randolph, Chair

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California Fair Political Practices Commission

Commissioners

Liane Randolph, Chair Sheridan Downey III Pamela Karlan Thomas S. Knox Gordana Swanson

Commission Meetings

Meetings are generally scheduled monthly in the Commission Hearing Room, 428 J Street, 8th Floor, Sacramento. Please contact the Commission or check the FPPC web site, http://www.fppc.ca.gov, to confirm meeting dates.

Pursuant to Section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Decision and Order materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

The Commission meeting agenda and supporting documents are available free of charge on the Commission's web site at http://www.fppc.ca.gov. Additionally, past and future agendas are posted on the web site.

Liane Randolph Is New FPPC Chairperson; Pamela Karlan Named Commissioner

Liane Randolph was sworn in on April 10 as the new chair of the Fair Political Practices Commission. She is a former city attorney who also previously served as a staff counsel for the FPPC.

In other Commission news, Stanford Law School Professor Pamela Karlan has been appointed to serve as a commissioner of the FPPC.

Both appointees bring a wide range of legal experience and accomplishments to their new positions.

Randolph, appointed chair by Gov. Gray Davis, formerly advised the City of San Leandro as city attorney. She served in that post from 2000 and was assistant city attorney from 1997-2000. She also served as city attorney for Suisun City and advised several cities, including Petaluma, Healdsburg and Suisun City, on redevelopment matters.

Randolph also has been a Principal in the Oakland law firm of Meyers, Nave, Riback, Silver and Wilson since 2000, serving as the firm's expert on ethics and conflicts of interest. She joined the firm in 1997 as an associate.

From 1994-95, she practiced election and campaign finance law with the San Leandro firm of Remcho, Johansen and Purcell and practiced commercial litigation from 1993-94 with the Los Angeles firm of Manatt, Phelps and Phillips.

Randolph also was a staff attorney in the Legal Division of the FPPC from 1995-97, providing advice on conflict-of-interest issues to public officials and representing the Commission in litigation on matters of campaign finance.

"I am pleased and honored to serve as chair of the Commission," Randolph said. "I bring a unique perspective to the position, as a former staff counsel for the FPPC and as a city attorney who has advised local officials on a daily basis about the complex regulations which govern their actions."

A native of Los Angeles, Randolph received her Bachelor's degree in history from the University of California, Los Angeles, in 1990, and

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The FPPC *Bulletin* is published by the Fair Political Practices Commission 428 J Street, Suite 620, Sacramento, CA 95814

Internet: http://www.fppc.ca.gov

Toll-free advice line: 1-866-ASK-FPPC (1-866-275-3772)

Telephone: 1-916-322-5660 Enforcement hotline: 1-800-561-1861

The *Bulletin* is published quarterly on the FPPC web site. To receive the *Bulletin* by e-mail, use our web site Mailing Lists tool at http://www.fppc.ca.gov/index.html?id=408

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...New Chair, Commissioner

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her Juris Doctorate from UCLA Law School in 1993.

She is an adjunct professor in the College of Professional Studies at the University of San Francisco.

Randolph succeeds Karen A. Getman, who was appointed by Davis on March 15, 1999.

Karlan was appointed as a commissioner of the FPPC by State Controller Steve Westly.

A professor of public interest law at Stanford Law School, she is widely published on subjects including voting rights and campaign finance reform.

Karlan has argued and won two voting rights cases before the U.S. Supreme Court and participated in numerous other cases before the court.

"I believe the Commission plays a critical role in maintaining our political system and the faith of our citizens," Karlan said. "I am honored to accept this appointment."

Karlan was sworn in to her post on April 25.
She is the Kenneth and Harle Montgomery
Professor of Public Interest Law at Stanford and
was the winner of the 2002 John Bingham Hurlbut
Award at the school.

She also has taught at the University of Virginia School of Law and has been a visiting professor at Yale, Harvard and New York Universities. She has been a visiting lecturer at the Federal Bureau of Investigation National Academy.

She clerked for two federal judges, including Justice Harry A. Blackmun of the U.S. Supreme Court. Her pro bono experience includes work with the NAACP Legal Defense and Educational Fund, and she currently is a cooperating attorney with the Legal Defense Fund.

Karlan is a graduate of Yale Law School and was an editor of the Law Journal. She earned her Master's degree in history and a B.A. magna cum laude in history at Yale University.

Her publications include, *The Law of Democracy: Legal Structure of the Political Process* (Foundation Press 2nd ed. 2001) (with Samuel Issacharoff and Richard H. Pildes), and *Civil Rights Actions: Enforcing the Constitution* (Foundation Press 2000) (with John C. Jeffries,

Jr., Peter W. Low and George A. Rutherglen).
Karlan assumes a vacant Commission seat
that was last held by former Commissioner
Carol Scott.

Web Site Update



New E-mail Subscription System for FPPC Bulletin, Meeting Agenda and Other Commission Communications

Continuing its efforts to better serve the public and regulated community, the Fair Political Practices Commission has developed a new, automatic system for e-mail subscriptions to the FPPC *Bulletin*, the Commission monthly agenda materials, interested persons notices and other important FPPC information.

To use the system, simply go to the new FPPC Mailing Lists page, accessed through the Mailing Lists link at the bottom of the left hand column of our web home page,

http://www.fppc.ca.gov.

Or, go directly to the FPPC Mailing Lists page at

http://www.fppc.ca.gov/index.html?id=408

Once at the page, simply enter your e-mail address. Choose the e-mail list or lists you would like to join and click on the "submit" button at the bottom of the form. You then will receive a confirmation e-mail for each list chosen. Reply to the confirmation e-mail(s) and the selected materials will be sent to the e-mail address you have entered.

Note that you also can use the new FPPC Mailing Lists page to *unsubscribe* from FPPC mailing lists in which you are no longer interested.

Additional FPPC e-mail mailing lists may be developed and added in the future.

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....Web Site Update

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Please note that all of the publications and materials offered via the e-mail system also will be available directly from our web site.

If you subscribed to one of the FPPC's e-mail lists before the new subscription system was launched, we will transfer your e-mail address to the new system. However, if you aren't receiving FPPC e-mail materials as expected or have other immediate questions about the new system, don't hesitate to e-mail or call FPPC Publications Editor Jon Matthews at jmatthews@fppc.ca.gov, or (916) 323-2937.

More information about this system will be made available on our web site and in future issues of the *FPPC Bulletin*.

Future Meeting Dates

The Fair Political Practices Commission currently is scheduled to meet on the following dates in 2003:

- Friday, May 9
- Thursday, June 5
- Thursday, July 10
- Thursday, August 7
- Thursday, September 4
- Thursday, October 2
- Thursday, December 4

Meetings generally begin at 9:30 a.m. in the FPPC's 8th floor hearing room at 428 J Street, Sacramento, but check the FPPC web site regularly as dates and times can change.

Meeting Summaries

Summaries of actions at the Commission's regular monthly meetings are posted on the Commission's web site at:

http://www.fppc.ca.gov/index.html?id=63.

Enforcement Summaries

March Commission Meeting

Adoption of ALJ Decision

Proposed Decision in Four Consolidated Cases. The following four cases were consolidated for hearing before Administrative Law Judge Ann Elizabeth Sarli. The Commission decided to adopt the proposed decision in its entirety.

Fair Elections Group and Nikola Mikulicich Jr., FPPC No. 98/148. Fair Elections Group of Los Angeles County was a state general purpose committee, and Nikola Mikulicich Jr. served as its treasurer. The Commission issued an Accusation alleging that the respondents failed to file two semi-annual campaign statements, in violation of Government Code section 84200 (2 counts). Following a hearing, Administrative Law Judge Sarli issued a proposed decision finding that the respondents violated the Act, and imposed an administrative penalty. \$4,000 fine.

Liberty's Torch PAC, Sponsored by Young Americans for Freedom and Nikola M. Mikulicich Jr., FPPC No. 98/763. Liberty's Torch, sponsored by Young Americans for Freedom of Los Angeles County was a state generalpurpose committee, and Nikola Mikulicich Jr. served as its treasurer. The Commission issued an Accusation alleging that the respondents failed to amend the statement of organization to include sponsorship information regarding the committee, in violation of Government Code section 84103 (1count); failed to amend the statement of organization to disclose the correct street address for the committee, in violation of Government Code section 84103 (1 count); and failed to file five semi-annual campaign statements, in violation of Government Code section 84200 (5 counts). Following a hearing, Administrative Law Judge Sarli issued a proposed decision finding that the respondents violated the

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Act, and imposed an administrative penalty. \$17,000 fine.

Californians Against Phony Election Reform and Nikola Mikulicich Jr., FPPC No. 98/465. In its statement of organization, Californians Against Phony Election Reform was described as a primarily formed statewide ballot measure committee, and Nikola Mikulicich Jr. served as its treasurer. The Commission issued an Accusation alleging that the respondents failed to file three semi-annual campaign statements, in violation of Government Code section 84200 (3 counts). At the complainant's request, Administrative Law Judge Sarli dismissed the accusation.

Nikola Mikulicich Jr., FPPC No. 00/86. California College Republicans of Los Angeles County was a state general purpose committee, and Nikola Mikulicich Jr. served as its treasurer. The commission issued an Accusation alleging that Mikulicich failed to file three semi-annual campaign statements, in violation of Government Code section 84200 (3 counts). Following a hearing, Administrative Law Judge Sarli issued a proposed decision finding that the respondent violated the Act, and imposed an administrative penalty. \$6,000 fine.

Lobbying Violations

TransCore Inc., FPPC No. 01/559. TransCore Inc., of Pennsylvania, a national ground transportation services company and a registered lobbyist employer, failed to timely file a lobbyist employer report for the quarter ending Dec. 31, 1999, by the Jan. 31, 2000 due date, in violation of section 86117(a) (1 count). \$2,000 fine.

SEI Disclosure Violations

Ron Holmes, FPPC No. 00/373. Ron Holmes, a battalion chief with the City of Modesto Fire Department, failed to disclose interests in real property and sources of income on his 1997 and 1998 annual statements of economic interests, in violation of section 87300 (2 counts). \$4,000 fine.

Campaign Reporting Violations

Andrea L. Hooper, the Committee to Elect Andrea L. Hooper, and Ethel Pacheco; FPPC No. 02/187. Andrea L. Hooper is the city clerk of the City of Lynwood. The Committee to Elect Andrea L. Hooper is her controlled committee. Ethel Pacheco was the treasurer of the committee. The respondents failed to timely file four pre-election campaign statements, in violation of sections 84200.8(a) and (b) (4 counts); failed to timely file three semi-annual campaign statements, in violation of section 84200(a) (3 counts); received a cash contribution of \$100 or more, in violation of section 84300(a) (1 count); and failed to disclose a late contribution, in violation of section 84203 (1 count). \$14,500 fine.

United Faculty of Grossmont-Cuyamaca PAC and Melvin Amov; FPPC No. 00/595. United Faculty of Grossmont-Cuyamaca PAC of El Cajon was a county general purpose recipient committee, formed for the purpose of supporting candidates for the governing board of the Grossmont-Cuyamaca Community College District. Melvin Amov was the treasurer of the committee. The respondents failed to timely file four semi-annual campaign statements, in violation of section 84200(a) (4 counts). \$4,000 fine.

<u>Late Contribution Report Violations —</u> Streamlined Program

Failure to Timely File Late Contribution Reports - Proactive Program. The following persons and entities have entered into stipulations for failure to file late contribution reports, in violation of Government Code section 84203:

ACS State & Local Solutions, FPPC No. 2002-1016. ACS State & Local Solutions of Washington, D.C., failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Henry M. Buhl, FPPC No. 2002-1021. Henry M. Buhl of New York, N.Y., failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

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Catterton Partners IV Management Company, FPPC No. 2002-1023. Catterton Partners IV Management Company of Greenwich, Conn., failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Michelle Coppola, FPPC No. 2002-1024. Michelle Coppola of Irvington, N.Y., failed to timely disclose a late contribution totaling \$25,000. (1 count). \$3,500 fine.

Holt of California, FPPC No. 2002-1032. Holt of California of Sacramento failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

G. Bradford Jones, FPPC No. 2002-1033. G. Bradford Jones of Los Angeles failed to timely disclose a late contribution totaling \$25,000. (1 count). \$3,500 fine.

Mark Kvamme, FPPC No. 2002-1034. Mark Kvamme of Atherton failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1.500 fine.

SEIU Los Angeles Homecare Workers Union Local 434-B, FPPC No. 2002-0790. SEIU Los Angeles Homecare Workers Union Local 434-B failed to timely disclose late contributions totaling \$22,000. (5 counts). \$3,300 fine.

Lennar Partners and Affiliated Entities, FPPC No. 2002-1037. Lennar Partners and Affiliated Entities of Irvine failed to timely disclose a late contribution totaling \$20,000. (1 count). \$3,000 fine.

W. Howard Lester, FPPC No. 2002-1038. W. Howard Lester of San Francisco failed to timely disclose a late contribution totaling \$50,000. (1 count). \$3,500 fine.

MJM Wilshire Partnership, FPPC No. 2002-1040. MJM Wilshire Partnership of Marina Del Rey failed to timely disclose a late contribution totaling \$25,000. (1 count). \$3,500 fine.

John Nickoll, FPPC No. 2002-1041. John Nickoll of Los Angeles failed to timely disclose late contributions totaling \$22,000. (2 counts). \$3.300 fine.

Rose Klein & Marias, LLP, FPPC No. 2002-1036. Rose Klein & Marias, LLP, of Sacramento, failed to timely disclose late contributions totaling \$11,000. (2 counts). \$1,650 fine.

Melissa K. Seifer, FPPC No. 2002-1046. Melissa K. Seifer of Rancho Santa Fe failed to timely disclose late contributions totaling \$10,000. (2 counts). \$1,500 fine.

January Commission Meeting

Conflict of Interest

Darryl M. See, FPPC No. 00/115. Darryl M. See, a medical doctor employed by the University of California at Irvine between 1994 and 1998, failed to disclose his economic interests in nongovernmental funding sources for six medical research projects for which he submitted applications in 1997 and 1998, in violation of Government Code section 87300 (6 counts). See also failed to disqualify himself from participating in making governmental decisions concerning the approval of the six research applications, in violation of Government Code section 87100 (6 counts). \$24,000 fine.

<u>Late Contribution Report Violations —</u> Streamlined Program

Failure to Timely File Late Contribution Reports - Proactive Program. The following persons and entities have entered into stipulations for failure to file late contribution reports, in violation of Government Code section 84203:

Allred Residential Property Company, FPPC No. 2002-1017. Allred Residential Property Company of San Diego failed to timely disclose late contributions totaling \$12,997. (2 counts). \$1,949.55 fine.

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Caliber Collision Centers, FPPC No. 2002-1022. Caliber Collision Centers of Irvine failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Crossroads LLC, FPPC No. 2002-1025. Crossroads LLC of Irvine failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

James D. Falaschi, FPPC No. 2002-1027. James D. Falaschi of Oakland failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Terry Hartshorn, FPPC No. 2002-1031. Terry Hartshorn of Newport Coast failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Stephen C. Sherrill, FPPC No. 2002-716. Stephen C. Sherrill of New York, N.Y., failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Stanford Financial Group Company, FPPC No. 2002-779. Stanford Financial Group Company of Los Angeles failed to timely disclose a late contribution totaling \$50,000. (1 count). \$3,500 fine.

TIG Specialty Insurance, FPPC No. 2002-1048. TIG Specialty Insurance of Irving, Texas, failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Lyle Turner, FPPC No. 2002-1050. Lyle Turner of Rancho Santa Fe failed to timely disclose late contributions totaling \$11,520. (2 counts). \$1,728 fine.

Kenneth E. Weg, FPPC No. 2002-1053. Kenneth E. Weg of Princeton, N.J., failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Geoffrey Y. Yang, FPPC No. 2002-1054. Geoffrey Y. Yang of Menlo Park failed to timely disclose a late contribution totaling \$25,000. (1 count). \$3,500 fine.

December Commission Meeting

Adoption of ALJ Decision

Larry Danielsen, FPPC No. 00/273. Larry Danielsen is a civil engineering associate for the state Department of Boating and Waterways. The commission issued an Accusation alleging that Danielsen failed to file four statements of economic interests, in violation of Government Code section 87300 (4 counts). Following a hearing, Administrative Law Judge Catherine B. Frink issued a proposed decision finding that Danielsen failed to file four statements of economic interests, imposing an administrative penalty of \$5,500, ordering Danielsen to file all delinquent statements and to cease and desist from further violations. After consideration of the matter in closed session, the Commission accepted the proposed decision in its entirety. \$5.500 fine and ordered to file four statements of economic interests (4 counts).

Money Laundering

Fermin Cuza, FPPC No. 02/985. Fermin Cuza was a senior executive at Mattel, Inc. As a senior executive, Cuza unilaterally made contributions on behalf of Mattel, Inc. without disclosing that Mattel, Inc. was the true source of the contributions, in violation of Government Code section 84302 (56 counts). \$88,000 fine.

Alan Schwartz, FPPC No. 01/162. Alan Schwartz was a political consultant hired by Fermin Cuza, a senior executive of Mattel, Inc. As a political consultant, Schwartz aided and abetted Cuza in making contributions on behalf of Mattel, Inc. without disclosing that Mattel, Inc. was the true source of the contributions, in violation of Government Code section 84302 (30 counts). \$58,000 fine.

Mattel, Inc., FPPC No. 02/984. Mattel, Inc. is a toy manufacturer headquartered in El Segundo. As a major donor committee, Mattel, Inc. failed to disclose contributions made on its behalf by its senior executive, Fermin Cuza, in violation of Government Code section 84211(k)(5) (48 counts). \$72,000 fine.

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Conflict of Interest

Shawn Boyd, FPPC No. 01/513. Shawn Boyd was a member of the Seal Beach City Council in Orange County. As a city council member, Boyd made governmental decisions in which he had a financial interest, by taking action in closed-session meetings of the Seal Beach City Council regarding a lawsuit filed against the Seal Beach Redevelopment Agency by developer Richard Hall, a source of income to Boyd, in violation of Government Code section 87100 (7 counts). Boyd also failed to disclose Hall as a source of income on his 2000 annual Statement of Economic Interests, in violation of Government Code section 87203 (1 count). \$25,000 fine.

Richard Ferreira, FPPC No. 02/805. Richard Ferreira was a consultant for the state Department of Water Resources (DWR) in the California Resources Scheduling Division. As a consultant, Ferreira participated in making a governmental decision in which he had a financial interest, by advising DWR to purchase energy from Calpine Energy Services, a company in which he had an investment interest of \$2,000 or more, in violation of Government Code section 87100 (1 count). \$5,000 fine.

Douglas Ferrarelli, FPPC No. 98/615. Douglas Ferrarelli, a senior structural engineer for the Office of Statewide Health Planning and Development, left his state position in April 1997, and accepted employment as a regional construction manager with Catholic Healthcare West - West Bay Region, whose regional office is located in San Francisco. Within one year of leaving his state position, and for compensation, Ferrarelli signed permit applications submitted to his former agency on behalf of CHW-West Bay, for the purpose of influencing the review and approval of building permits for his employer's medical facilities, in violation of Government Code section 87406 (3 counts). \$3,500 fine.

Lobbying

Earnest Governmental Relations Consulting and Curtis J. Earnest, FPPC No. 00/734. Curtis Earnest, a registered lobbyist, and Earnest Gov-

ernmental Relations Consulting, a registered lobbying firm located in Sacramento, failed to timely file eight quarterly lobbying reports, in violation of Government Code section 86117 (8 counts). \$8,000 fine.

Campaign Reporting Violations

Committee for a Quality Education and Del H. Guyer, FPPC No. 00/704. Committee for a Quality Education is a primarily formed committee, created to support the passage of a special bond measure for the William S. Hart School District in Los Angeles County. Respondent Del H. Guyer was the treasurer of the committee. Respondents failed to disclose on a semi-annual campaign statement, for the reporting period Jan. 1, 2000, through June 30, 2000, the name, address, occupation and employer information for contributors of \$100 or more, in violation of Government Code section 84211(f)(1)-(4) (1 count). \$2,000 fine.

Christopher G. Wilson, Committee to Elect Christopher G. Wilson Judge of the Superior Court, and Lelona R. Songy, FPPC No. 2000/824. Christopher G. Wilson was a successful candidate for the Humboldt County Superior Court in the 1998 general election. Respondent Committee to Elect Christopher G. Wilson Judge of the Superior Court was Wilson's controlled committee. Respondent Lelona R. Songy was the treasurer of the committee. Respondents failed to file two late contribution reports, in violation of Government Code section 84203(a) (2 counts); received prohibited cash contributions, in violation of section 84300(a) (1 count); failed to report subvendor information, in violation of sections 84211 (i)(6) and 84303 (1 count); and failed to maintain adequate records, in violation of section 84104 (1 count). \$6,000 fine.

Anthony Villafranca and Friends to Elect Tony Villafranca, FPPC No. 99/297. Anthony Villafranca was an unsuccessful candidate for the City Council of National City, in the Nov. 3, 1998, municipal election. Respondent Friends to Elect Tony Villafranca was his controlled committee. Respondents failed to file a statement of organization within 10 days of Friends to Elect Tony

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Villafranca qualifying as a committee, in violation of Government Code section 84101(a), and failed to timely file a post-election semi-annual campaign statement, in violation of Government Code section 84200 (1 count). \$1,200 fine.

<u>Late Contribution Report Violations -</u> <u>Streamlined Program</u>

Failure to Timely File Late Contribution Reports - Proactive Program. The following persons and entities have entered into stipulations for failure to file late contribution reports, in violation of Government Code section 84203:

AB & I, FPPC No. 2002-781. AB & I of Oakland failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

All American Asphalt-All American Aggregates, FPPC No. 2002-698. All American Asphalt-All American Aggregates of Corona failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Califormula Broadcasting, FPPC No. 2002-783. Califormula Broadcasting of Chula Vista failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Chandar Power Systems, Inc., FPPC No. 2002-701. Chandar Power Systems, Inc., of San Diego, failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Pierre P. Claeyssens, FPPC No. 2002-702. Pierre P. Claeyssens of Santa Barbara failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

De Francesco & Sons, FPPC No. 2002-784. De Francesco & Sons of Firebaugh failed to timely disclose late contributions totaling \$15,000. (2 counts). \$2,250 fine.

William H. Draper III & Phyllis C. Draper Trust, FPPC No. 2002-785. William H. Draper III & Phyllis C. Draper Trust of Atherton failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Komatsu America International Company, FPPC No. 2002-709. Komatsu America International Company of Vernon Hills, Ill., failed to timely disclose a late contribution totaling \$25,000. (1 count). \$3,500 fine.

Thomas E. Larkin, Jr., FPPC No. 2002-776. Thomas E. Larkin, Jr., of Los Angeles failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,350 fine.

Katrina Leung, FPPC No. 2002-786. Katrina Leung of San Marino failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Liberty Mutual Insurance, FPPC No. 2002-787. Liberty Mutual Insurance of Boston, Mass., failed to timely disclose a late contribution totaling \$25,000. (1 count). \$3,500 fine.

Carl Lindner, FPPC No. 2002-710. Carl Lindner of Cincinnati, Ohio, failed to timely disclose a late contribution totaling \$25,000. (1 count). \$3,500 fine.

Thomas McKernan, FPPC No. 2002-788. Thomas McKernan of Arcadia failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

T. Willem Mesdag, FPPC No. 2002-770.

T. Willem Mesdag of Los Angeles failed to timely disclose a late contribution totaling \$25,000. (1 count). \$3,500 fine.

Milberg Weiss Bershad Hynes & Lerach, LLP, FPPC No. 2002-771. Milberg Weiss Bershad Hynes & Lerach, LLP, of New York, N.Y., failed to timely disclose a late contribution totaling \$15,000. (1 count). \$2,250 fine.

Miller Brothers Investments, LLC, FPPC No. 2002-712. Miller Brothers Investments, LLC, of Calabasas failed to timely disclose a late contribution totaling \$25,000. (1 count). \$3,500 fine.

O.C. Jones & Sons, Inc., FPPC No. 2002-714.
O.C. Jones & Sons, Inc. of Berkeley failed to
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timely disclose late contributions totaling \$11,000. (2 counts). \$1,650 fine.

Peterson Tractor Company, FPPC No. 2002-773. Peterson Tractor Co. of San Leandro failed to timely disclose a late contribution totaling \$25,000. (1 count). \$3,500 fine.

Race Investments, LLC, FPPC No. 2002-789. Race Investments, LLC, of Eureka failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

RGW Construction, FPPC No. 2002-777. RGW Construction of Livermore failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Robertson, Vick & Capella, LLP, FPPC No. 2002-722. Robertson, Vick & Capella, LLP, of Woodland Hills failed to timely disclose late contributions totaling \$15,000. (5 counts). \$2,250 fine.

Southland Windows, Inc., FPPC No. 2002-775. Southland Windows, Inc. of Garden Grove failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Thomas Steyer, FPPC No. 2002-717. Thomas Steyer of San Francisco failed to timely disclose a late contribution totaling \$25,000. (1 count). \$3,500 fine.

Visionquest Industries, Inc., FPPC No. 2002-724. Visionquest Industries, Inc. of Irvine failed to timely disclose a late contribution totaling \$10,000. (1 count). \$1,500 fine.

Selim K. Zilkha, FPPC No. 2002-780. Selim K. Zilkha of Los Angeles failed to timely disclose a late contribution totaling \$50,000. (1 count). \$3,500 fine.

Failure to Timely File Late Contribution Reports - Proactive Program. The following persons and entities have entered into stipulations for failure to file late contribution reports, in paper and electronic format, in violation of Government Code sections 84203 and 84605:

Julie Simon Munro, FPPC No. 2002-713. Julie Simon Munro of Sausalito failed to timely disclose late contributions totaling \$30,000. (2 counts). \$4,500 fine.

Election Systems & Software, FPPC No. 2002-704. Election Systems & Software of Omaha, Neb., failed to timely disclose late contributions totaling \$55,000. (2 counts). \$7,000 fine.

SEI Disclosure Violations

Bernardo M. Perez, FPPC Nos. 02/745.

Bernardo M. Perez, a former member of the Moorpark City Council in Ventura County, failed to disclose sources of income on his 1997 annual Statement of Economic Interests, in violation of Government Code sections 87203 and 87207(a) (1 count), and on his leaving office Statement of Economic Interests, in violation of sections 87204 and 87207(a) (1 count). \$4,000 fine.

Civil Litigation Enforcement Action

The Fair Political Practices Commission and the Morongo Band of Mission Indians, located in Riverside County, announced on January 8, 2003, that they reached a \$25,000 civil settlement for failure to file a late contribution report disclosing a \$500,000 late contribution made by the tribe to support the passage of Proposition 1A in the March 7, 2000, primary election.

In the settlement, the Morongo Band agreed to pay \$25,000 in civil penalties to the state general fund for failing to timely file a report disclosing the late contribution, as specified under the Political Reform Act. In exchange for the Morongo Band entering into the settlement agreement - in which it also agreed to continue its practice of timely reporting its campaign contributions - the Commission agreed to dismiss its civil suit against the tribe.

According to the complaint, the Morongo Band made a \$500,000 late contribution, in the form of a loan, from the Morongo Band Native American

 $(Continued\,on\,page\,11)$

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...Civil Litigation Enforcement Action

(Continued from page 10)

Rights Fund, to California Indians For Self-Reliance -- a committee formed primarily to support the passage of Proposition 1A on the March 2000 ballot. Proposition 1A was a ballot measure, approved by voters, permitting Indian tribes to operate Nevada-style gambling casinos in California.

The Morongo Band was notified by the FPPC that it had not filed the required late report within 24 hours of making the contribution. The tribal administration investigated and determined that the tribe's outside political reporting consultant did not file the report due to an inadvertent error. The Proposition 1A campaign had disclosed receipt of the tribe's contribution within 24 hours as required.

The Morongo Band has been among the top contributors to California candidates and ballot measures since 1998. The tribe has made more than \$18 million in political contributions since 1998. With the exception of this single disclosure failure, the tribe has consistently complied with the campaign reporting provisions of the Political Reform Act.



New FPPC publications on the web!

New publications on our web site include the draft 2003 Addendum to FPPC Campaign Information Disclosure Manuals A-E, a newly revised conflict-of-interest slide show, 2003 and 2004 candidate filing schedules, and a newly revised fact sheet on recall elections.

Check them out at http://www.fppc.ca.gov.

Legislative Update



Bills Proposing to Amend the Political Reform Act

AB 190 (Parra) Adds to the Political Reform Act's definition of "late contribution" contributions made to or received by a political party committee before the date of any election in which a state candidate is voted on, but after the closing date of the last campaign statement required to be filed before that election.

AB 419 (PERS Committee) Adds members elected to the Teachers' Retirement Board to the definitions of "Elective Office" and "State Elective Office." These definitions would trigger certain filing requirements for candidates for and holders of those offices. This bill would require the Teachers' Retirement System to reimburse the Commission for all reasonable expenses associated with the bill's provisions.

AB 1501 (Levine) Allows a state candidate to change his or her statement accepting or rejecting the voluntary expenditure limits at any time prior to the deadline for filing nomination papers, provided that he or she has not exceeded the voluntary limits.

AB 1678 (Negrete McLeod) Applies to all public officials the Political Reform Act's ban on the influencing of any governmental decision relating to those with whom a public official is negotiating, or has any agreement concerning, future employment.

SB 467 (Johnson) Allows an elected state officer serving his or her last term to accept contributions to pay for expenses associated with holding that office. The contributions would be subject to Prop. 34 limits.

(Continued on page 12)

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...Legislative Update

(Continued from page 11)

SB 530 (Johnson) Requires the Secretary of State to establish the Internet Directory of Lobbyists within sixty days after the start of each legislative session.

SB 604 (Perata) Defines "cumulative contributions," for the purposes of 84503, to be those contributions received beginning 12 months prior to the date the committee made its first expenditure to qualify, support, or oppose the measure and ending within seven days of the time the advertisement is sent to the printer or broadcast station. This bill also modernizes the language of the Political Reform Act relating to the filing of various 24-hour reports by deleting a reference to filing by telegram, and adds methods for filing, including facsimile transmission and guaranteed overnight delivery.

SB 641 (Brulte) Requires the disclosure of the candidate, committee or slate mail organization paying for a telephone call in support of or opposition to a candidate or ballot measure in the course of the telephone call. Also amends the definition of "mass mailing" to include any item delivered, by any means, to the recipient at his or her residence, place of employment or business, or post office box. Excludes form letters and other responses to unsolicited requests for information.

SB 1072 (Burton) Adds to the Political Reform Act's definition of a "late contribution" contributions made to or received by a political party committee after the closing date of the last campaign statement required to be filed before an election.

Major Education, Enforcement and Regulatory Actions Highlighted 2002

The FPPC's Enforcement Division opened 1,097 case files in 2002, far surpassing the 770 opened in 2001 or the 858 opened in 2000, the year of the previous statewide general election.

In 2002, the FPPC's Technical Assistance Division staff members handled 55,500 telephone calls seeking advice, guidance and other assistance.

The Commission's Legal Division continued to implement the many provisions of voter-approved Proposition 34 while devoting substantial time to

other regulatory, advice and litigation duties.

And the FPPC commissioners themselves. who, with the exception of the chair. serve parttime and receive a modest stipend, devoted extensive hours to preparing for monthly meetings, carefully weighing pub-



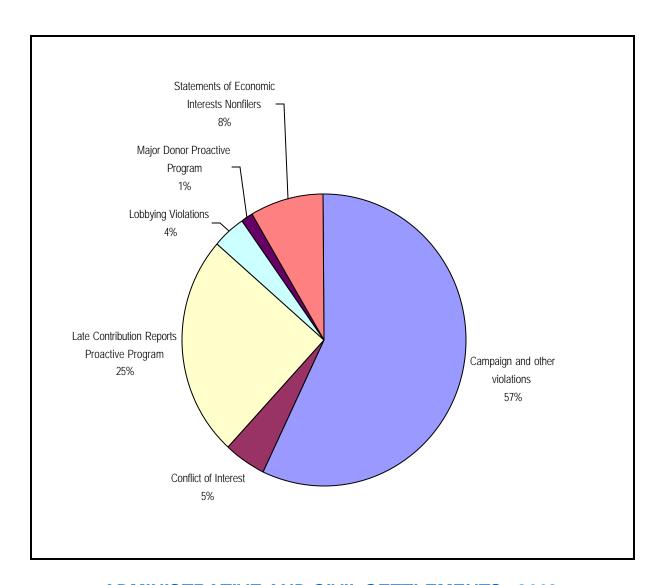
Dixie Howard, a FPPC filing officer programs manager, leads a well-attended seminar for statement of economic interests filing officers. Howard was assisted by Emily Bowden, a FPPC staff services analyst.

lic testimony, and acting on hundreds of agenda items.

As these facts confirm, the FPPC, one of the smaller state agencies, had an extremely busy 2002.

To help make the most efficient use of limited
(Continued on page 15)

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ADMINISTRATIVE AND CIVIL SETTLEMENTS - 2002

| TYPES OF VIOLATIONS: | Fines | No. of Cases | Case % | Fine % |
|---------------------------------------------|-------------|--------------|--------|--------|
| Campaign and other violations | \$640,600 | 37 | 25% | 57% |
| Conflict of Interest | \$54,000 | 7 | 5% | 5% |
| Late Contribution Reports Proactive Program | \$278,386 | 72 | 49% | 25% |
| Lobbying Violations | \$43,450 | 6 | 5% | 4% |
| Major Donor Proactive Program | \$15,800 | 5 | 3% | 1% |
| Statements of Economic Interests Nonfilers | \$94,600 | 20 | 14% | 8% |
| Total | \$1,126,836 | 147 | 100% | 100% |

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Enforcement Actions Summary of Fines Assessed and Imposed 1975 through 2002

| Administrative Actions | | | | | Civil Judgments | |
|------------------------|-------|----------------|--------------|---------------|-----------------|----------------|
| Year | Cases | Fines Assessed | Fines Waived | Fines Imposed | Cases | Fines Assessed |
| 1975 | 0 | \$0 | \$0 | \$0 | 0 | \$0 |
| 1976 | 11 | \$1,400 | \$500 | \$900 | 0 | \$0 |
| 1977 | 1 | \$4,000 | \$0 | \$4,000 | 0 | \$0 |
| 1978 | 1 | \$4,500 | \$0 | \$4,500 | 2 | \$25,250 |
| 1979 | 8 | \$6,820 | \$0 | \$6,820 | 2 | \$6,500 |
| 1980 | 18 | \$79,600 | \$35,950 | \$43,650 | 1 | \$1,000 |
| 1981 | 5 | \$14,600 | \$3,000 | \$11,600 | 2 | \$5,000 |
| 1982 | 10 | \$57,500 | \$10,750 | \$46,750 | 0 | \$0 |
| 1983 | 5 | \$71,100 | \$12,500 | \$58,600 | 1 | \$1,250 |
| 1984 | 15 | \$72,200 | \$4,000 | \$68,200 | 0 | \$0 |
| 1985 | 7 | \$24,750 | \$5,000 | \$19,750 | 1 | \$9,000 |
| 1986 | 12 | \$37,400 | \$1,250 | \$36,150 | 0 | \$0 |
| 1987 | 22 | \$97,900 | \$6,000 | \$91,900 | 0 | \$0 |
| 1988 | 34 | \$154,600 | \$10,500 | \$144,100 | 3 | \$367,500 |
| 1989 | 35 | \$182,250 | \$0 | \$182,250 | 0 | \$0 |
| 1990 | 36 | \$219,000 | \$0 | \$219,000 | 0 | \$0 |
| 1991 | 39 | \$463,550 | \$0 | \$463,550 | 3 | \$235,000 |
| 1992 | 44 | \$276,450 | \$0 | \$276,450 | 3 | \$415,000 |
| 1993 | 36 | \$833,050 | \$0 | \$833,050 | 1 | \$772,000 |
| 1994 | 30 | \$656,800 | \$0 | \$656,800 | 1 | \$85,000 |
| 1995 | 51 | \$1,698,050 | \$0 | \$1,698,050 | 0 | \$0 |
| 1996 | 56 | \$1,026,221 | \$0 | \$1,026,221 | 0 | \$0 |
| 1997 | 54 | \$912,650 | \$0 | \$912,650 | 2 | \$47,000 |
| 1998 | 96 | \$1,190,710 | \$0 | \$1,190,710 | 7 | \$95,490 |
| 1999 | 63 | \$968,500 | \$0 | \$968,500 | 5 | \$309,900 |
| 2000 | 174 | \$554,037 | \$0 | \$554,037 | 1 | \$9,100 |
| 2001 | 158 | \$595,000 | \$0 | \$595,000 | 2 | \$83,000 |
| 2002 | 143 | \$1,007,836 | \$0 | \$1,007,836 | 4 | \$119,000 |
| TOTALS | 1,164 | \$11,210,474 | \$89,450 | \$11,121,024 | l 41 | \$2,585,990 |

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...Highlights of 2002

(Continued from page 12)

FPPC staff and budget resources, there will be no separate FPPC annual report published for 2002.

But this *FPPC Bulletin* article is intended to outline, in abbreviated form, a few of the major highlights of the Commission's work during the year.

Enforcing the law

In all of its enforcement programs, the Enforcement Division opened 1,097 enforcement case files during 2002. The division completed prosecution of 147 administrative and civil cases. The Commission assessed \$1,126,836 in administrative and civil fines (see the charts on the previous two pages for more details). When remitted, the fines are deposited in the state's general fund.

The Enforcement Division continued its innovative, streamlined enforcement programs that expedite prosecution and disclosure while stressing preventative outreach efforts and education. Division managers and staff also focused on increasing division efficiency to deal with the sharply increased number of case files.

Unfortunately, a relatively small but increased number of complaints filed with the FPPC in 2002 appeared to be frivolous in nature or possibly filed strictly for publicity purposes, prompting the FPPC to caution that such complaints are not in the public interest and divert limited agency resources from legitimate cases and investigations.

Informing the public and regulated officials

Much of the FPPC's work in 2002 centered on educating the public and the many thousands of Californians with obligations under the Political Reform Act. A major goal was to provide candidates, public officials and others with needed information about rules and disclosure requirements, thus increasing compliance and preventing any legal problems down the road. FPPC commissioners, all divisions and the FPPC Public Education Unit and press office actively participated in this effort.

The FPPC's popular toll-free advice line, 1-866-ASK-FPPC, saw its second full year of operation. On all lines, Technical Assistance Division staff members received 55,500 calls. October alone brought 7,007 calls, a monthly record. Technical Assistance Division staff members report that throughout the year, Monday was the busiest day of the week on the FPPC's many telephone lines.

Callers typically asked how to comply with the Political Reform Act's rules governing campaign contributions and expenditures, how to avoid conflicts of interest, or how to comply with lobbying disclosure requirements.

The FPPC's Legal Division, meanwhile, wrote 356 letters of advice to those with obligations or duties under the political reform act. The Technical Assistance Division and Legal Division worked closely together and conducted frequent internal meetings on the more complicated advice issues of the year.

FPPC staff members and the agency's chairman and commissioners hosted or participated in a broad variety of educational seminars, outreach visits, conferences and meetings. To the extent resources permitted, in-person outreach training and seminars were offered to candidates, campaign treasurers, filing officers and others at many locations across the state.

A sampling includes:

- Technical Assistance Division staff members gave a total of 86 campaign and statement of economic interests outreach presentations for city, county, state and multi-county agency filing officers.
- A total of 18 seminars were offered for candidates and treasurers in cities across the state, including Huntington Beach, Berkeley, Irvine, Santa Cruz, Santa Clara, Lathrop, El Cajon, Windsor, Upland, Walnut Creek, Alhambra, San Luis Obispo, West Sacramento, Thousand Oaks, Santa Monica, Lancaster, Whittier, and Riverside. Approximately 844 persons attended these seminars.
- Agency staff from all divisions, and the FPPC chairman and commissioners, worked closely with a variety of other organizations and appeared at numerous workshops and conferences within the state.

(Continued on page 16)

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...Highlights of 2002

(Continued from page 15)

Examples included appearances before district attorneys, city and county associations, and transportation agencies. A major highlight was an annual meeting of California ethics agencies organized by the FPPC and hosted by the Oakland Public Ethics Commission on April 29, 2002.

In other projects, the Commission began a tollfree telephone broadcast program for those wishing to listen to the Commission's monthly meetings.

The FPPC's Public Education Unit, with assistance from other staff, produced a handy booklet detailing how public officials and others may obtain advice from the FPPC. Thousands of copies of the booklet have been distributed or downloaded from the FPPC web site.

The FPPC's media director, with assistance from other staff members, responded to thousands of calls from media representatives. The media director produced a steady stream of press advisories and releases, arranged for FPPC visits to newspaper editorial boards, and helped many reporters conduct in-person or telephone interviews with commissioners and key FPPC staff.

Interpreting the law

The Commission and its Legal Division in 2002 continued major initiatives to further improve and simplify the Commission's regulations. The Legal Division also devoted substantial resources to the continued implementation of voterapproved Proposition 34.

The Commission issued one formal opinion, *In re Hanko*, 16 FPPC Ops 1, O-02-088, holding that payments to a hospital district director from her employer will be attributed to a purchaser of her employer's products where the public official: 1) has been employed to purposefully direct sales or marketing activity toward the purchaser; 2) there is direct contact between the public official and the purchaser intended by the public official to generate sales or business; and 3) there is a direct relationship between the purchasing activity of the purchaser and the amount of the incentive compensation received by the public official.



FPPC staff members and the FPPC chairman participated in the 2002 annual meeting of California ethics agencies. The meeting, organized by the FPPC and hosted by the Oakland Public Ethics Commission, allowed the agencies to discuss shared responsibilities and other issues.

Where these requirements are met, both the purchaser and the employer are considered sources of income to the official for purposes of Government Code sections 87100 and 87103.

Throughout 2002, the Legal Division continued its work to implement Proposition 34, the campaign reform initiative passed by voters in November of 2000. The division held two interested persons meetings and adopted or amended 21 regulations relating to Proposition 34.

The Legal Division, in cooperation with the Technical Assistance Division and the Enforcement Division, also worked on continuing FPPC programs to simplify and improve existing regulations. Five additional interested persons meetings were held on subjects ranging from conflict of interest codes to the "public generally" rule. In addition to Proposition 34-related regulations, the Commission adopted or amended 31 regulations in 2002.

Major court cases

The Commission was involved in numerous court cases in 2002.

For example, one major new case included Levine et al. v. FPPC. On January 22, 2002, four publishers of "slate mail" filed suit in Federal Dis-

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(Continued from page 16)

trict Court alleging that the Act's slate mail identification and disclosure requirements (§§ 84305.5 and 84305.6) violate their constitutional rights. The first of these statutes contains identification and disclaimer provisions in effect prior to enactment of Proposition 208, while § 84305.6 was introduced by Proposition 34.

On September 25, 2002, a federal court entered a preliminary injunction barring FPPC enforcement of the challenged statutes against three of the four plaintiffs. Further pre-trial proceedings, including the establishment of a trial date, are pending.

Filing duties

In 2002, FPPC staff members received, reviewed, logged and filed 22,535 statements of economic interests from public officials across California. Employees and officeholders of virtually all state and local agencies, as well as candidates for public office, use the FPPC Form 700 to file these personal financial statements. FPPC staff also provided copies of statements, which are public records, to the public upon request.

Many statements of economic Interests are not filed directly with the FPPC, but instead go to local or agency filing officers or other officials. However, the FPPC did extensive work in 2002 to help state and local government agencies adopt, review and update their individual conflict of interest codes.

Expanded web site

The FPPC continued to expand and improve its web site in 2002. New features were added to the

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The FPPC: Who we are

The Fair Political Practices Commission was created by the Political Reform Act of 1974, a ballot initiative passed by California voters as Proposition 9.

The Commission is a bipartisan, independent body of five members that administers and enforces the Political Reform Act's rules on conflicts of interest, campaign contributions and expenditures and lobbying disclosure.

The Commission educates the public and public officials on the requirements of the Act. It provides written and oral advice to public agencies and officials; conducts seminars and training sessions; develops forms, manuals, instructions and educational materials; and receives and files economic interests statements from many state and local officials.

The Commission investigates alleged violations of the Political Reform Act, imposes penalties when appropriate and assists state and local agencies in developing and enforcing conflict-of-interest codes.

The Governor appoints two commissioners, including the chairman. The Secretary of State, the Attorney General and the State Controller each appoint one commissioner. Commissioners serve a single, four-year term, and no more than three members can be registered with the same political party. The chairman is salaried and serves full-time, and the other four members serve part-time.

The Commission generally meets once each month to hear public testimony, issue opinions, adopt regulations, order penalties for violations of the Act and take other action.

Supporting the Commission is a staff of 72 employees. The Commission has four main divisions — Enforcement, Technical Assistance, Legal and Administration, as well as a small executive staff and a Public Education Unit.

The Commission is headquartered at 428 J Street in downtown Sacramento. The public reception area is in Suite 620.

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...Highlights of 2002

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site, including a directory of Commission formal opinions, an updated and revised slide show on conflict of interest rules, and an updated chart describing key requirements of Proposition 34. Candidate filing schedules, advice summaries, seminar schedules, electronic forms, and many other useful tools are on the web site.

To make the most efficient use of staff and budget resources, the agency began converting many of its publications, including the *FPPC Bulletin*, to be primarily web-based and e-mail-based publications.

A large e-mail mailing list was established for the *Bulletin*, and the Commission began developing an automated system for e-mail subscriptions to the *Bulletin*, the Commission meeting agenda, and other materials. Work on this email subscription system is continuing in 2003.

Special Spring Workshop

FPPC staff experts hosted a unique and wellattended April 16, 2002, workshop to help media members, public interest group representatives and others more easily use the state's huge repositories of campaign, lobbying and economic interest disclosure data.

The workshop, at the FPPC in Sacramento, provided information on where campaign, lobbying and economic disclosure information is located, how to get it, and what the myriad disclosures on the forms and electronic filings actually mean.

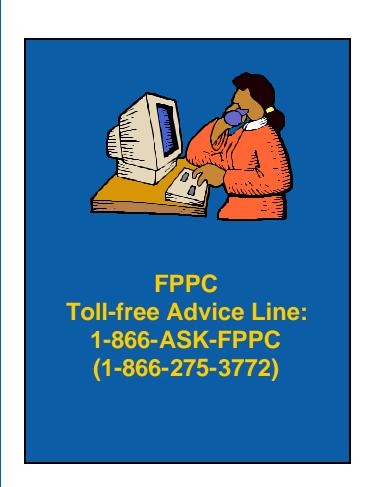
The FPPC workshop featured multi-media presentations and included discussion of information found in campaign reports, including those filed by candidates, contributors and ballot measure campaigns. The FPPC staff experts also discussed lobbying disclosure reports and statements of economic interests filed by tens of thousands of state and local public officials. Information was provided on downloading information into spreadsheets, searching for individual candidates and committees, and many other areas.

At the end of the workshop, participants were invited to receive individual "hands-on" computer training.

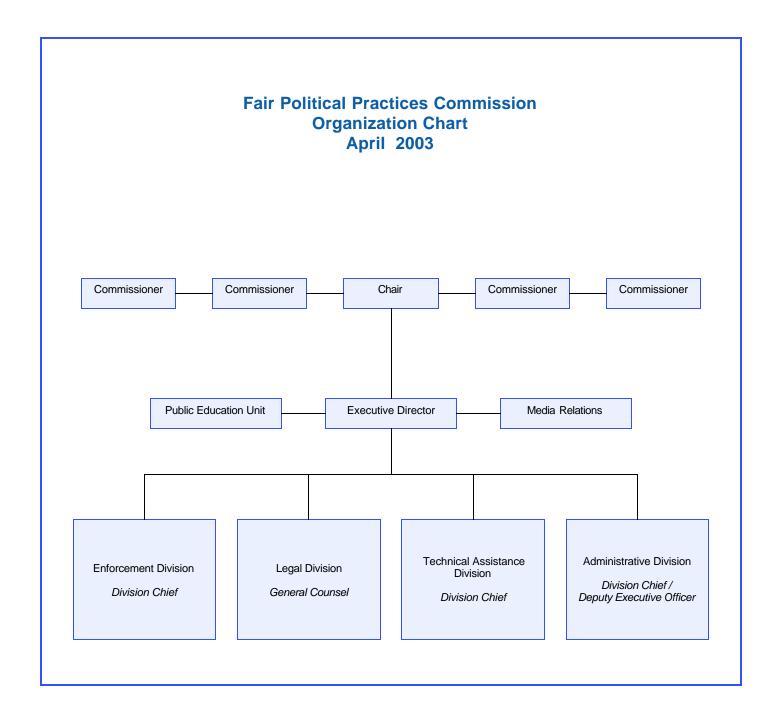
Administration

The FPPC's Administration Division helped the agency function as efficiently as possible within limited budget resources. The division provided computer and data processing support, purchasing, printing, personnel services, public reception, document receiving and many other vital services.

FPPC Publications Editor Jon Matthews and FPPC Editorial Assistant John Symkowick contributed to this article.



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Clerks' Corner

Campaign Forms Refresher Course

By Kevin S. Moen
FPPC Political Reform Consultant



During odd-numbered years, such as 2003, many local governments hold their elections. Therefore, we want to take the time to review the campaign forms required of local candidates. (Non-candidate committees are not included in this review.) As a filing officer, you may want to provide all of these forms, in addition to Information Manual A and the 2003 addendum, to your candidates when you first meet them. All campaign forms and the addendum are available on the Commission's web site at http://www.fppc.ca.gov.

Many filing schedules are already on the Commission's web site: click on "Candidates and Committees," then click on "Filing Deadlines." However, if your jurisdiction is having an election for which a filing schedule does not exist, contact us at 1/866-275-3772 and we will be happy to develop one for you.

Form

501

Candidate Intention Statement

Discussion

- * Form 501 is for candidates (including incumbents seeking reelection)
- * Must be filed BEFORE the candidate raises or spends any funds to run for election, with the exception of any personal funds used to pay for the filing or ballot statement fee.
- * Filed with the local filing officer.

Example: City council member Lisa Berg is seeking reelection. Lisa must file a Form 501 before she raises money into the current committee she will re-designate for her reelection campaign.

470 Campaign Statement Short Form

- * Form 470 is for candidates who do not have a committee, and do not anticipate raising or spending \$1,000 or more in a calendar year, including their own personal funds, but excluding their personal funds used to pay for the filing or ballot statement fee. (Candidates with a committee may NOT use this form.)
- * Must be filed whenever the first report is due. It is filed only once a year.
- * Filed with the local filing officer.

Example: Joan Spitze is the mayor of the city of Lago Lindo. She is running for reelection without opposition in the November election. She has not had an open committee in the current year and decides not to raise or spend any money, except to use her personal funds to pay for the filing fee. She may file the Form 470 by July 31 as a semi-annual statement. She is not required to file another statement for the year.

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410 Statement of Organization

- * Form 410 is for all committees.
- * A candidate's committee is one that receives or spends \$1,000 or more in a calendar year. The candidate's personal funds count toward the threshold. (However, the candidate's personal funds used to pay the filing or ballot statement fee do not count.)
- * Must be filed within 10 days of receiving or spending \$1,000 in a calendar year. This form will generate a committee identification number from the Secretary of State.
- * The original and one copy is filed with the Secretary of State, and one copy is filed with the local filing officer.
- * Must also be filed to terminate the committee.

Example: Kito Douglass is running for city council for the first time. To get his campaign started, on July 20 he deposits \$1,000 of his personal funds into his campaign bank account. On or before July 30, he must file the Form 410.

460 Committee Campaign Statement

- * Form 460 is for all candidate committees.
- * Filing deadlines are determined by the date of the election. (The most common election deadlines are on our web site.)
- Filed with the local filing officer.
- * Must be filed with a zero balance to terminate the committee.

Example: Yang Kim is running for school board for the first time in the November election. By June 30, she has raised \$1,500. By July 31, she must file a Form 460 as a semi-annual statement.

497 Late Contribution Report

- * Form 497 is for candidate committees that receive contributions of \$1,000 or more from a single source within the 16 days before the election (Committees are also required to file the Form 497 if they make contributions of \$1,000 or more to another candidate or ballot measure committee within 16 days before the recipient's election.)
- * Must be filed within 24 hours of receiving (or making) the contribution.
- * Filed with the local filing officer.

Example: Ten days before his election, Martin Cuadra loans his committee \$1,000. He must file the Form 497 within 24 hours.

Reminder: Even if your city or county is not holding an election in 2003, most candidates, officeholders, and committees must file a campaign statement on or before July 31, 2003. The Political Reform Act does exempt judges and officeholders who receive less than \$200 per month for serving in office *if* they have not received contributions or made expenditures. Page 22 FPPC Bulletin May 2003 Volume 29, No. 2

Litigation Report



Pending litigation report prepared for the Commission's May 9, 2003, meeting, updated for more recent developments:

California ProLife Council, Inc. v. Karen Getman et al.

This case involves a challenge to the Act's reporting requirements regarding express ballot measure advocacy. On October 24, 2000, the district court dismissed certain counts for standing and/or failure to state a claim. On January 22, 2002, the court denied a motion for summary judgment filed by plaintiff, and granted the FPPC's motion, after concluding that "the constitutional case or controversy requirement of ripeness cannot be satisfied." This resolved all claims in favor of the FPPC. The Court entered judgment accordingly on January 22, 2002, and plaintiff filed a timely notice of appeal with the Ninth Circuit Court of Appeal. The appellate case has been briefed by the parties, and by Amici The Brennan Center for Justice and the National Voting Rights Institute (joining in one brief) and the states of Washington. Nevada and Oregon (joining in one brief.) The matter was heard by Circuit Judges Rymer, Trott and Tallman on February 11, 2003, and is now pending decision.

Danny L. Gamel et al. v. FPPC

In September 2001, the Commission adopted the proposed decision of an Administrative Law Judge assessing a penalty of \$8,000 against plaintiffs for making campaign contributions in violation of §§ 84300 – 84302. Plaintiffs contested this decision by Writ of Mandate in the Fresno County Superior Court. On March 21, 2002, the Court upheld the Commission's determination that Dan Gamel and Rudy Olmos violated the Act, but vacated the finding against Gamel Inc. Penalties assessed against Dan Gamel were affirmed but the court remanded the case to the Commission for reconsideration of the penalty assessed

against Mr. Olmos. Plaintiffs filed a notice of appeal of the Superior Court's decision regarding the fines assessed against Mr. Gamel and the findings against Mr. Olmos. The matter was set for hearing on May 14, 2003, at 10 a.m, but the parties have waived oral argument and the court will now decide the matter without hearing, on the papers already submitted by the parties.

Levine et al. v. FPPC

On January 22, 2002, four publishers of "slate mail" filed suit in Federal District Court alleging that the Act's slate mail identification and disclosure requirements (§§ 84305.5 and 84305.6) violate their constitutional rights. The first of these statutes contains identification and disclaimer provisions in effect prior to enactment of Proposition 208, while § 84305.6 was introduced by Proposition 34. The status conference originally scheduled for April 29 was continued to June 10, 2002, to coincide with the hearing on plaintiffs' motion for preliminary injunction before Judge Lawrence K. Karlton. The hearing was conducted on July 29, 2002. The court declined to conduct a status conference on the ground that its ruling on the preliminary injunction might affect pretrial scheduling. On September 25, 2002, the court entered a preliminary injunction barring FPPC enforcement of the challenged statutes against three of the four plaintiffs. The court has not yet issued a scheduling order or set a further status conference, which would establish a trial date and timelines for pretrial proceedings.

FPPC v. Californians Against Corruption et al

The case stems from the FPPC's 1995 administrative prosecution of a recall committee that failed to properly itemize its contributors, in violation of section 84211. In November 1995, the FPPC issued a default decision and order against defendants, imposing an administrative penalty of \$808,000. In January 1996, the FPPC brought a collection action in the Sacramento Superior Court to convert the penalty to a civil judgment. Defendants responded by filing a cross-complaint/petition for writ of mandate in the Superior Court, contesting the default decision. In July 2000, the Superior Court dismissed the defendants' pleadings for failure to prosecute. In March 2001, the

(Continued on page 23)

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...Litigation Report

(Continued from page 22)

Superior Court granted the FPPC's motion for summary judgment in the collection action, and entered judgment for \$808,000 plus interest. Defendants then filed this appeal in April 2001, before the Third District Court of Appeal. After briefing, the court indicated that it was prepared to decide the matter without oral argument. On February 11, 2003 defendants filed a request for oral argument, which was granted. The matter was heard on April 22, and is now pending decision.

Peninsula Health Care District v. FPPC

This case challenged the Commission's recent Opinion, In re Hanko, O-02-088, adopted on August 9, 2002. The Commission concluded that a customer of Ms. Hanko's employer could be a disqualifying source of income under certain circumstances, even though the customer dealt with Ms. Hanko's employer through an intermediary. A Petition for Writ of Mandate was filed in the Court of Appeal on or about November 1, 2002. A week later, the Court of Appeal denied the writ without prejudice to re-filing in an appropriate superior court. On November 15, 2002, plaintiff filed a new Petition in the Sacramento County Superior Court. The hearing originally set for January 31 was conducted on February 7, 2003. On March 3, the court ruled in favor of the Commission. Judgment was entered in favor of the Commission on March 21, 2003, and Notice of Entry of Judgment was served on March 26, 2003. Peninsula Health Care District's deadline for filing any appeal of the decision is May 30, 2003.

FPPC v. Agua Caliente Band of Cahuilla Indians, et al.

The FPPC alleges in this action that the Agua Caliente Band of Cahuilla Indians contributed more than \$7.5 million to California candidates and ballot measure campaigns between January 1 and December 31, 1998, but did not timely file major donor reports disclosing those contributions. The suit also alleges that the Agua Caliente Band failed to timely disclose more than \$1

million in late contributions made between July 1, 1998, and June 30, 2002. The FPPC later amended the complaint to add a cause of action alleging that the tribe failed to disclose a \$125,000 contribution to the Proposition 51 campaign on the November 5, 2002, ballot. The Agua Caliente Band has filed a Motion to Quash Service for Lack of Personal Jurisdiction, alleging that it is not required to comply with the Political Reform Act because of its tribal sovereign immunity. A hearing on that motion was held on January 8, 2003, before the Honorable Loren McMaster, in Department 53 of the Sacramento County Superior Court. On February 27, the court ruled in the Commission's favor. On April 7, 2003, the Agua Caliente Band filed a petition for writ of mandate with supporting exhibits in the Third Appellate District of the Court of Appeal challenging the decision of the trial court. The petition was summarily denied on April 24, 2003.

FPPC v. Santa Rosa Indian Community of the Santa Rosa Rancheria

The FPPC alleges in this action that the Santa Rosa Indian Community of the Santa Rosa Rancheria (the Santa Rosa Rancheria) failed to file major donor semi-annual campaign statements in the years 1998, 1999, and 2001, involving more than \$500,000 in political contributions to statewide candidates and statewide propositions. The suit also alleges that the Santa Rosa Rancheria failed to disclose more than \$350,000 in late contributions made in October 1998. The complaint was originally filed on July 31, 2002, and was amended to October 7, 2002. On January 17, 2003, the Santa Rosa Rancheria filed a Motion to Quash Service of Summons and First Amended Complaint. This motion is based upon its claim of tribal sovereign immunity from suit. The FPPC's response to the motion was filed on February 10, 2003. The matter was originally scheduled to be heard on February 20, 2003, but was continued to March 6, 2003 at the request of defendant. The matter was heard on that date before the Honorable Joe S. Gray in Department 54 of the Sacramento County Superior Court. On April 24, 2003, the Santa Rosa Rancheria's Motion to Quash was granted. The Commission will now decide whether to file an appeal with the 3rd District Court of Appeal in Sacramento.

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Lobbyist Ethics Course Set for June

The legislative ethics committees have announced the scheduling of an additional ethics course for lobbyists. The course will be conducted in Sacramento on June 13, 2003.

This means there are now two remaining opportunities for California's conditionally registered lobbyists to complete their ethics course requirement (Gov. Code Section 86103) prior to the mandated June 30 filing deadline. There is no waiver or extension of this deadline.

Any lobbyist who has not completed the ethics course requirement for the 2003-2004 Legislative Session should attend one of these courses.

A lobbyist who does not complete the ethics course requirement and fails to comply with the related filing deadlines is prohibited from acting as a lobbyist in California and may be subject to criminal penalties and substantial fines.

Spaces are filled in the order that sign-up forms, accompanied by checks for the \$25 course fee, are received in the Senate Ethics Committee office.

As space is limited, it is recommended that you sign up early.

For sign-up forms, contact Jeanie Myers at the Senate Committee on Legislative Ethics at (916) 324-6929.

Ethics Courses For Lobbyists

- 1. Los Angeles 1:30 to 3:30 p.m. Thursday, May 15, 2003
- 2. Sacramento Convention Center Room 308 – 1:30 to 3:30 p.m. Friday, June 13, 2003

Sign-up deadline: Sign-up form with fee must be received in the Senate Ethics Committee office by 5:00 p.m. the Friday before the course.

FPPC Advice Summaries

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance may be provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an "A," while informal assistance is identified by the letter "I."

Campaign

Lance H. Olson Superintendent of Public Instruction Dated: February 13, 2003 File Number A-02-320

Section 85316 did not go into effect for statewide candidates until November 6, 2002. The Commission has determined that section 85316's restriction on fundraising after an election does not apply to elections held before January 1, 2001 (for state legislative offices), or November 6, 2002 (for statewide offices). Therefore, a committee established before November 6, 2002, for an election held prior to that date may continue receiving contributions (irrespective of whether it has debt) and is not subject to contribution limits.

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Alan Seman City of Rancho Mirage Dated: January 7, 2003 File Number A-02-330

A council member, who since closing his campaign committee received a contribution, is advised of the process for reopening the committee account and how the funds may be spent.

The Honorable Gene Mullin California Assembly Dated: January 7, 2003 File Number A-02-339

It is permissible under the Act for an Assembly member's campaign committee to compensate his son for professional services the son provides to the committee as its ongoing political director. Under the Act, campaign funds may be used to pay for the cost of professional services rendered to a committee that are directly related to a political, legislative or governmental purpose.

Laurence S. Zakson California Assembly Dated: January 24, 2003 File Number A-02-355

Clarification for an Assembly candidate that a candidate for state elective office must accept or reject voluntary spending limits at the time he or she files the Statement of Intention, and may not change this determination except in limited circumstances.

Gregory D. Totten Office of the D.A. – Ventura County Dated: January 29, 2003 File Number A-03-004

If a California state university waives the normal fee for use of its hall for an elected official's campaign victory celebration, the transaction would be reportable as a non-monetary contribution to the official's campaign committee from the university. However, university policy and laws outside the Act concerning the use of public funds, may prohibit the university from making a political contribution. If the official's committee pays the usual fee for the use of the hall, no contribution will result.

Janice Durant Orange County Water District Dated: December 4, 2002 File Number: A-02-299

The district secretary for a water district was advised that she has no duties or responsibilities under the Act for the directors' campaign statements. Since the directors are required to file statements of economic interests with the water district, the district secretary must perform specific duties under regulation 18115, including date stamping the statements, keeping a copy of the statements in the district's files for public review and reproduction, and forwarding the original statements to the county board of supervisors. The district secretary is not required to review the directors' completed statements of economic interests for accuracy.

David Bauer Friends of David Knowles Dated: December 24, 2002 File Number: I-02-338

A former As sembly member was advised that his surplus campaign funds could not be contributed to central committees of a political party, with the understanding that the funds would be returned if, at a future date, he decided to run again for public office. While surplus funds may be donated to a political party, section 89519 of the Act provides that they may not be used by the political party to support or oppose candidates for political office. In addition, donations of surplus funds to a political party for the purpose of supporting or opposing candidates for political office are limited under section 85303(b) to \$25,000.

Janet Crain, Treasurer Izzy Martin for Supervisor Dated: October 31, 2002 File Number: A-02-275

A candidate's controlled committee can accept cash for goods sold at auction, provided that any portion of the sales price that exceeds the fair market value of the item does not equal or exceed \$100. Page 26 FPPC Bulletin May 2003 Volume 29, No. 2

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Paul Miller Paul Miller for City Council Dated: November 20, 2002 File Number: A-02-290

The correct method for reporting uncashed checks returned to a candidate's controlled com-

mittee is explained in this letter.

The Honorable K. Maurice Johannessen California Senate

Dated: November 26, 2002 File Number: I-02-292

A senator sought advice on the proper use of funds transferred from his Assembly committee. The senator was advised that the funds were "surplus funds" under section 89519 and could only be used to pay certain officeholder expenses incurred in connection with the office for which the funds were raised (e.g., the Assembly). The senator was also advised that surplus funds could not be contributed to candidates, unless the candidacy is for a federal office or an elective office in a state other than California. Funds could be contributed to the central committee of a political party, as long as the party did not use the funds to support or oppose candidates for elective office. Finally, his surplus could be donated to charity, as long as the recipient is a bona fide taxexempt organization.

Dominick V. Spatafora California Psychological Association Dated: November 25, 2002 File Number: I-02-298

When a committee receives a contribution of \$100 or more and the source is unknown, the funds must be transferred to the Secretary of State. A committee may retain contributions of under \$100 from a single source.

The Honorable Ross Johnson California Senate Dated: November 26, 2002 File Number: I-02-321

Advice relating to a third party is declined in this

letter.

Conflict of Interest

John G. Barisone City of Santa Cruz Dated: February 3, 2003 File Number A-02-272

A public official is presumed to have a conflict of interest where the official's real property is directly involved in the decision.

Gregory J. Oliver Tuolumne County Dated: February 13, 2003 File Number I-02-284

A county supervisor plans to provide environmental consulting services to individuals and agencies located in his county, as well as snow removal service for a discrete service area within the county. The supervisor is given informal advice in this letter that payments from agencies for environmental services he performs constitute income for purposes of defining sources of income that may be a disqualifying economic interest to him. In addition, if a decision of the board of supervisors will have a reasonably foreseeable material financial effect on an individual or business entity that is a source of income to him, either promised or received, aggregating \$500 or more over the 12 months preceding that decision, he will be disqualified from making, participating in making or influencing that decision.

Lori J. Barker City of Chico

Dated: February 24, 2003 File Number A-03-022

A park commissioner is presumed to have a conflict of interest in a trail decision. Included in this letter is discussion regarding the possible indirect involvement of the commissioner's property, based on localized effects of the decision.

Susan Schectman Midpeninsula Regional Open Space District Dated: January 7, 2003 File Number A-02-287

A member of the Midpeninsula Regional Open Space District may participate in a decision involving real property located beyond 500 feet from the official's property.

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Rebecca J. Turrentine Bellflower Unified School District Dated: January 10, 2003 File Number A-02-303

A public official who is a member of a unified school district board, who simultaneously holds employment as a special education teacher for the county office of education, will not have a conflict of interest disqualifying him from: 1) participating in discussions of the district taking back special educational programs currently run by the county; 2) voting to hire a consultant to study the issues of taking back the programs; or 3) voting on the decision to take back programs unless the decision would result in the official losing his job.

Dominick Chiricosta Franchise Tax Board Dated: January 9, 2003 File Number I-02-313

The provisions of the revolving door statutes with respect to a former Franchise Tax Board employee are discussed in this letter.

Robert W. Hargreaves City of Palm Desert Dated: January 29, 2003 File Number A-02-315

The effects of amendments to a zoning ordinance applicable to all properties in the category are presumed not to be material for a council member whose real property is located within the category to be amended.

Stephen L. Dorsey City of Pasadena Dated: January 22, 2003 File Number I-02-335

A city manager, whose spouse was employed by a public relations firm working to achieve goals in competition with a public agency on which the city manager had decision-making authority, would have a conflict of interest in any decision with a foreseeable material financial effect on the spouse's firm, a source of income to the city manager. However, the "nexus" analysis is not applicable to the public

official when the public official's spouse is employed to achieve ends furthering, or hindering, the official's public obligations.

Jeffrey M. Oderman City of San Clemente Dated: January 29, 2003 File Number A-02-340

A council member owns real property that is indirectly involved in two different development decisions. If he determines that there is no reasonably foreseeable material financial effect on his property or personal finances, he may participate in the decisions.

Howard Laks City of Santa Monica Dated: January 22, 2003 File Number A-02-346

An architect is a member of the City of Santa Monica Architectural Review Board. The architect may represent his client regarding a project that is before the planning commission on appeal.

Celia A. Brewer City of Solana Beach Dated: January 17, 2003 File Number I-02-347

A city council member whose principal residence is located within 500 feet of the city's shoreline is advised that he has a conflict of interest prohibiting his involvement in city council decisions concerning shoreline erosion mitigation plans and policies, unless an exception applies or unless he can rebut the presumed material financial effect of those decisions on his economic interests in his real property. Under regulation 18705.2(a) (1), such decisions are presumed to have a material financial effect upon his economic interest in real property located 500 feet or less from the shoreline, which is the property that is the subject of such decisions.

Patricia Lambert Coast Life Support District Board of Directors Dated: January 8, 2003 File Number I-02-349

A public official is advised that, barring an economic interest in her adult son, she will not have (Continued on page 28)

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a conflict of interest in a decision solely because the decision may have a financial effect on her son.

Harvey Paskowitz Channel Islands Beach Community Services District

Dated: January 28, 2003 File Number A-02-354

Campaign contributions are not "economic interests" as defined in section 87103. Section 84308 imposes disclosure and disqualification obligations on certain public officials in connection with the receipt of campaign contributions. Generally, however, directly elected officers are exempt from the provisions of section 84308.

Jennifer McGrath City of Huntington Beach Dated: January 24, 2003 File Number I-02-356

A planning commissioner is advised on a variety of issues that may pose a conflict of interest. The letter includes a short discussion on how Government Code section 84308 may impact him.

Mary R. Casey Marin Municipal Water District Dated: December 9, 2002 File Number: I-02-247

A newly appointed member of the Marin Municipal Water District Board of Directors ("District") inquired as to whether he would have a conflict of interest regarding issues that typically come before the District. The District member owns a consulting practice involved in environmental research, is a member of a partnership that provides software for environmental research, and contracts with the Institute of Fisheries Resources. Decisions of the District include items such as water supply contract negotiations, environmental issues, and other issues relating to water supply from the Russian River, including negotiations with the Sonoma County Water Agency. The District member would have a conflict of interest if the effect of any of these decisions impacts any of these businesses by more

than the thresholds provided in regulations 18705.1 and 18705.3.

Sonia Rubio Carvalho City of Azusa

Dated: December 20, 2002 File Numbers: A-02-293;294;314

City officials with personal residences located within 500 feet of property that is proposed for development sought advice as to whether they could rely upon real estate appraisals to rebut the presumption that development-related decisions will have a reasonably foreseeable material financial effect on their real property. The officials were advised that a real estate appraisal that considers the factors listed in regulation 18705.2(b)(1)(A)-(C), is conducted by a disinterested and duly qualified real estate professional, and reaches an objectively defensible conclusion, may provide a reasonable and objective basis for rebutting the presumption in these circumstances that the redevelopment decisions will have a reasonably foreseeable material financial effect on their respective personal residences.

Barry A. Rosenbaum

Office of the City Attorney - Santa Monica

Dated: December 2, 2002 File Number: I-02-296

Where a landmark commissioner's real property is within 500 feet of real property that is the subject of a governmental decision, the official's real property is "directly involved" and materiality is presumed. Thus, the official may not participate in the decision, absent a showing that there will be no financial effect on the official's real property, or unless an exception applies.

Brien J. Farrell, City Attorney City of Santa Rosa

Dated: December 17, 2002 File Number: A-02-302

A city official is given advice that decisions affecting development of a new commercial shopping area will not have a reasonably foreseeable material financial effect on the official's interest in a business entity in which he has an investment interest, and which employs the official. The

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city-commissioned feasibility study for the new shopping area estimated the financial effect of the new commercial center on the official's employer as under \$300 per year. Based on this fact, the financial effect is not considered material.

Liane M. Randolph Petaluma City Council Dated: December 12, 2002 File Number: I-02-304

A Petaluma city council member is also a local real estate broker. The council member was advised that neither his real estate brokerage business nor the owner of a parcel of land sold through that brokerage to a developer would create a conflict of interest disqualifying him from being involved in city council decisions concerning development of that parcel by its new owner. The council member was also advised, however, that if the seller represented by his brokerage firm retained a security interest in the parcel upon its sale, the seller would represent a directly involved economic interest that could disqualify him from being involved in city council decisions concerning the parcel.

Richard S. Taylor City of Saratoga

Dated: December 3, 2002 File Number: A-02-305

A council member may participate in a decision about a use permit application from a local church and affiliated school, even though the council member's children attend the school. The council member does not have an economic interest in the decision under the Act.

Robert R. Ovrom, City Manager City of Burbank

Dated: December 9, 2002 File Number: A-02-306

This follow-up to *Ovrom* Advice Letter, No. A-02-254 seeks clarification as to whether the city manager for the City of Burbank would have a conflict of interest if he makes decisions regarding a redevelopment project when his adult daughter, who now lives with him, is a program applicant. Since she is over 18 years of age and is not his dependent, she is not a part of his

"immediate family" as used in the Act. The fact that she resides with the city manager does not impact this conclusion. Thus, the conflict-ofinterest rules are not implicated unless his expenses have increased or decreased enough to meet the \$250 in any 12-month period personal financial effect threshold.

Nancy Aaberg Yuba City Unified School District Dated: December 31, 2002

File Number: I-02-351

An individual selected for appointment to a state agency asked whether receipt of publishers' royalty payments would create a potentially disqualifying conflict of interest, even if the individual permanently renounces receipt of any future royalty payments. The appointee was advised that if royalties received from a publisher total \$500 or more for the 12-month period immediately preceding the date of a decision, the appointee would have a potentially disqualifying conflict of interest, even when no future royalty payments will be received.

Laura C. Kuhn City of Scotts Valley Dated: November 5, 2002 File Number: A-02-192

A public official may participate in a decision to relocate propane gas tanks to a site 2,000 feet from her home unless she determines that there will be a material financial effect on her property based on the factors in regulation 18705.2(b). The "public generally" exception does not apply to a decision on a site acquisition as a mitigation bank for a habitat conservation plan. Therefore, she may not participate in that decision.

Barbara Z. Leibold City of Lake Elsinore Dated: November 18, 2002 File Number: A-02-218

A council member sought advice as to whether his current and prior employment arrangements presented a conflict of interest regarding decisions made as a council member, and as his city's representative to various local area political bodies. This letter concludes that since clients of his former employer are not considered to be

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sources of income to him, he does not have a conflict of interest disqualifying him from decisions that will have a reasonably foreseeable material financial effect on those clients. In addition, this letter discusses what is considered to be reasonably foreseeable under the Commission's opinion, *In re Thorner*, and concludes that a decision concerning certain ongoing litigation will have a reasonably foreseeable material financial effect on a source of income to him. Thus, the council member is advised that he is disqualified from being involved in that decision.

Steven Zent City of Redondo Beach Dated: November 1, 2002 File Number: I-02-278

General guidance regarding the holding of multiple public positions simultaneously and conflicts of interest is provided in this letter. The Act does not prohibit holding more than one public office.

Gary McGeorge Mark Twain Union Elementary School District

Dated: November 6, 2002 File Number: I-02-279

A candidate is running for a position on a school board within the same school district in which his wife is an employee. The candidate will not have a conflict of interest, so long as he does not use his official position to influence decisions which could result in the hiring, firing, promotion, demotion or discipline of his wife, or set a salary different from salaries paid to other employees within her job classification or position.

Conflict of Interest Code

Michael Kahoe San Joaquin Valley Water Coalition Dated: January 21, 2003 File Number A-02-171

Under the Commission's *Siegel* test, the San Joaquin Valley Water Coalition Board is a local government agency.

Steven L. Andriese Mountain-Valley Emergency Medical Services Agency

Dated: November 5, 2002 File Number: A-02-276

The Mountain-Valley Emergency Medical Services Agency ("Agency") requested advice on behalf of the Regional Advisory Committee ("RAC"), a subcommittee which the Agency formed. The Agency inquired as to whether RAC members are "public officials" subject to the disclosure and disqualification provisions of the Act. Since RAC makes substantive recommendations to the Emergency Medical Services Board of Directors that are regularly approved without significant modification, RAC is a decision-making body and its members are public officials as defined by the Act.

Gift Limits

Lisa A. Foster City of San Diego Dated: February 28, 2003 File Number A-03-014a

This letter advises that a city attorney did not receive a gift when he purchased tickets to the Super Bowl from the NFL at the price stated on the ticket, despite the fact that there was a secondary market for the tickets with resale values higher than the face value of the tickets. In addition, other city officials attended a pre-game party hosted by the NFL. Admission tickets to the party were free to invitees and had no stated value. The letter advises that the value of a pregame party ticket is the cost to the donor, including payments for food, beverages, rental of the facility, decorations, entertainment, and other tangible benefits.

George S. Fuller Teachers Association of West Covina Dated: December 30, 2002

File Number: A-02-307

Whether payments for a board of education member's travel to a conference, made by the National Education Association and a local teacher's association, are reportable gifts is discussed.

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Lobbying

Caren Daniels-Meade Political Reform Division-Secretary of State Dated: January 24, 2003 File Number A-02-310

Under section 84605(g), a lobbying entity must electronically file its registration documents in the next legislative session if it had an electronic filing obligation in the previous legislative session and the entity is continuing its lobbying activities in the coming legislative session.

Vernon M. Billy San Francisco Unified School District Dated: December 3, 2002 File Number: I-02-204

A part-time, in-house lobbyist for a school district requested advice as to whether he is prohibited from creating a lobbying firm under the Act. Also, he inquired on the reporting rules for his current salary from the school district. Although payments to lobbyists are required to be reported, a lobbyist firm is permitted to apportion the payments based on the percentage of the lobbyist's compensated time spent influencing or attempting to influence legislative or administrative action.

Mass Mailing

Daniel G. Hobbs City of Fresno Dated: January 7, 2003 File Number A-02-336

The mass mailing provisions do not prevent the printing of vision statements on the back of all city employee business cards whether or not the vision statement is credited to the mayor. However, the mayor's name cannot occur more than once on any card, including his own, that otherwise would meet the requirements of the mass mailing provisions.

William Baber City of San Diego Dated: December 19, 2002 File Number: A-02-327

Distribution of Super Bowl pins which display the

mayor's name, by hand or any other means to a city employee, civic leader or volunteer at his or her place of business is prohibited since all four of the criteria in the mass mailing regulation are met.

Lawrence E. Dale, Mayor City of Barstow Dated: December 6, 2002 File Number: A-02-331

General discussion of the mass mailing prohibition in section 89001. Where a mailing is prepared and sent in cooperation, consultation, coordination, or concert with the elected officer, the elected officer's name may not be included in the mass mailing, absent an express exception.

Nancy E. Fenton County of Alameda Dated: November 27, 2002 File Number: A-02-300

Alameda County requested advice regarding mass mailing restrictions which would apply to a bimonthly newsletter that they deliver to all county employees with their paychecks. Although the statute requires that no newsletter or other mass mailing shall be sent at public expense, an exception applies for items sent in the normal course of business from one governmental entity or officer to another governmental entity or officer, as well as intra-agency communications sent in the normal course of business to employees and other staff. Therefore, the newsletter was exempt from the mass mailing prohibition.

Revolving Door

Michael P. White Department of Information Technology Dated: February 13, 2003 File Number I-02-350

A former chief of information officer and director for the Department of Information Technology sought advice concerning post-employment restrictions in connection with the intent to engage in private consulting in the information technology industry. Since the agency has been dissolved and did not appear to have subordinate agencies, the one-year ban is not applicable. However, the official is permanently barred from representing

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clients in the proceedings in which he personally and substantially participated as a state official, including matters conducted by employees under his direct supervision.

Sherry Skelly Griffith Department of Education Dated: January 17, 2003 File Number A-02-334

An official loaned by her agency to a commission to act as its executive secretary requests advice for purposes of the post-employment provisions of the Act. The official asks which entities are considered her former state administrative agency employer. The advice concludes that her former state administrative agency employer is the department for which she worked during the past 12 months of her state employment, the commission to which she was loaned, and the state board which controls the operations of that commission.

Rosemarie Dunbarr Department of Motor Vehicles Dated: January 30, 2003 File Number I-02-352

When a state public official only appears before her former employer in connection with ministerial acts of the agency, the one year revolving door prohibition does not apply. However, the letter cautions that if the appearance is in connection with administrative action or an action or proceeding involving the issuance of a permit, license, or grant (other than ministerial acts), then the former public official may be required to wait a period of 12 months after leaving state service to engage in certain activities, or there may be a lifetime prohibition on participating in certain activities, depending upon the duties in which the former official engaged while with the state agency.

Thomas V. Speer Dept. of Water Resources Dated: November 1, 2002 File Number: I-02-285

The official was advised that the one-year ban

commences when the official is no longer receiving compensation and is no longer under an employment contract. The official was also advised that the one-year ban applies only to appearances or communications before his former state administrative agency employer and the officials thereof. The official may appear before other state administrative agencies during this one-year period, provided that such appearances are not in connection with matters from which he is prohibited from appearing because of the permanent ban.

Statement of Economic Interests

The Honorable Bruce Van Voorhis Contra Costa County Dated: January 7, 2003 File Number A-02-342

A judge is advised as to how to report a loan to, and a gift from, a business entity on his Statement of Economic Interests.

Andrea M. Chelemengos City of Monte Sereno Dated: December 30, 2002 File Number: A-02-332

Should a site and architectural commission qualify as a "planning commission" under Government Code § 65100, its members will file statements of economic interests pursuant to sections 87200-87201.

Lindsay F. Nielson Ventura County Board of Supervisors Dated: November 6, 2002 File Number: A-02-147

A member of the treasury oversight committee and a member of the board of supervisors were advised that, on the facts available, the treasury oversight committee does not appear to provide a "solely advisory function," and treasury oversight committee members were accordingly required to file Statements of Economic Interests. Additional discussion of "other public officials who manage public investments" under § 87200 is also provided.

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Section 84308

Ronald D. Davis City of Huntington Beach Dated: December 19, 2002 File Number: A-02-344

So long as an individual is an "officer" subject to section 84308 at the time of a decision, section 84308 requirements apply. The individual need not be an "officer" at the time the contribution was received. The contribution that triggers the requirements need only meet the requisite threshold and be received within the 12 months prior to the decision.